

In re) Fair Hearing No. 20,042
)
Appeal of)

The petitioner appeals a decision by the Office of Vermont Health Access denying her request for comprehensive orthodontic authorization for her daughter under Medicaid. The issue is whether the daughter's condition meets the standard of severity for Medicaid coverage.

1. The petitioner has a twelve-year-old daughter whose dentist has recommended comprehensive orthodonture for her. Her orthodontist submitted a Medicaid request for orthodontic treatment in August 2005 on a form prepared by the Department. On that form he checked only that the girl's dentition met one minor criterion, "2 blocked bicuspid, per arch". There was no indication on the form that there was any "other handicapping malocclusion". The orthodontist also wrote that the request was being submitted at the request of the petitioner, but that the patient "does not meet the criteria". Department denied this request after determining

that the girl's orthodontic problem was not severe enough to qualify for comprehensive orthodontic treatment.

2. On October 17, 2005, the orthodontist sent the petitioner a letter that summarized her daughter's dental problems, but which again stated: "We are aware that she did not meet the eligibility (sic) based on the diagnostic criteria provided for comprehensive orthodontic care."

3. At the hearing in this matter held on December 15, 2005, the petitioner conceded that neither her daughter's dentist nor her orthodontist would support her appeal of Medicaid eligibility. The petitioner argued that she should be granted coverage based on financial need, in that her daughter's father is delinquent in furnishing child support.

ORDER

The Department's decision is affirmed.

REASONS

The Department has adopted regulations which require it to pay for only "medically necessary" orthodontic treatment for Medicaid recipients under the age of twenty-one. W.A.M. §§ M622.1, 622.2, and 622.3. The regulations, and rulings by the Board and the Vermont Supreme Court, further provide that to be considered medically necessary the patient's condition

must meet or equal one major or two minor malocclusions according to diagnostic criteria adopted by the department's dental consultant or if otherwise medically necessary under EPSDT found at M100. See M622.4.¹

In this matter, the petitioner presented evidence that her daughter meets one of the minor criteria used by PATH to determine severity for the orthodonture program, but was unable to obtain any evidence that she meets any other criteria or that her combination of dental problems is equally as severe or "handicapping" as any combination of those impairments that are listed. Nor could she obtain

¹ The criteria used by PATH require that the malocclusion be severe enough to meet a minimum of 1 major or 2 minor diagnostic treatment criteria as follows:

Major Criteria

Cleft palate
2 impacted cuspids

Other severe cranio-facial anomaly

Minor Criteria

1 Impacted cuspid
2 Blocked cuspids per arch
(deficient by at least 1/3 of needed space)
3 Cogenitally missing teeth, per arch
(excluding third molars
Anterior open bite 3 or More teeth (4+mm)
Crowding, per arch (10+ mm)
Anterior crossbite (3+ teeth)
Traumatic deep bite
Impinging on palate
Overjet 10+mm
(measured from labial to labial)

sufficient medical evidence that her daughter has any other condition that necessitates orthodonture as part of its treatment.

Financial need is an element of Medicaid *eligibility* (not at issue herein), but under the regulations it is not a factor in determining coverage for any particular medical service. Inasmuch as the Department's decision in this matter is supported by the evidence and in accord with the pertinent regulations it must be upheld. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

#